

**UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS**

USCA Docket Number:

USDC Docket Number : 04-cv-30014

The Mercy Hospital, Inc.,

v.

Massachusetts Nurses Association

CLERK'S CERTIFICATE

I, Sarah A Thornton, Clerk of the United States District Court for the District of Massachusetts, do hereby certify that the annexed documents as indicated on the certified copy of the docket and contained in Volume(s) I are the original pleadings and constitute the record on appeal in the above entitled case for the Notice of Appeal filed on 4/5/05.

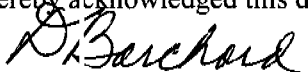
In testimony whereof, I hereunto set my hand and affix the seal of this Court on April 7, 2005.

Sarah A. Thornton, Clerk of Court

By: 

Jeanette Ramos, Deputy Clerk

Receipt of the documents in the above entitled case is hereby acknowledged this date: 4/7/05.



Deputy Clerk, US Court of Appeals

Please complete the following information:

COURT OF APPEALS DOCKET NUMBER ASSIGNED: _____

APPEAL

**United States District Court
District of Massachusetts (Springfield)
CIVIL DOCKET FOR CASE #: 3:04-cv-30014-MAP**

The Mercy Hospital, Inc. v. Massachusetts Nurse
Association

Assigned to: Judge Michael A Ponsor
Cause: 09:0010 Petition to Vacate Arbitration
Award

Date Filed: 01/23/2004

Jury Demand: None

Nature of Suit: 790 Labor: Other

Jurisdiction: Federal Question

Plaintiff

The Mercy Hospital, Inc.

represented by **Maurice M. Cahillane, Jr.**
Egan, Flanagan & Cohen, PC
67 Market Street
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413-737-0260
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

V.

Defendant

**Massachusetts Nurse
Association**

represented by **Alan J. McDonald**
McDonald & Associates
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153 Cordaville Road
Southborough, MA 01772
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LEAD ATTORNEY
ATTORNEY TO BE NOTICED

Mark A. Hickernell

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*LEAD ATTORNEY**ATTORNEY TO BE NOTICED*

Date Filed	#	Docket Text
01/23/2004	<u>31</u>	COMPLAINT against Massachusetts Nurse Association by The Mercy Hospital, Inc. filed. Filing fee of \$150.00 paid. Receipt number 305485. CF, LR 4.1, notice of lawsuit and waiver of service of summons to Counsel.(Finn, Mary) (Entered: 01/26/2004)
02/26/2004	<u>32</u>	ANSWER to Complaint by Massachusetts Nurse Association. (Lindsay, Maurice) (Entered: 02/27/2004)
03/15/2004	<u>33</u>	Judge Michael A Ponsor : ORDER entered REFERRING CASE to Magistrate Judge Kenneth P. Neiman Referred for: Scheduling Conference(French, Elizabeth) (Entered: 03/15/2004)
03/17/2004	<u>34</u>	NOTICE of Scheduling Conference Scheduling Conference set for 4/23/2004 at 10:00 AM in Courtroom 3 before Magistrate Kenneth P. Neiman; cc/cl. (Finn, Mary) (Entered: 03/17/2004)
04/21/2004	<u>35</u>	JOINT SUBMISSION pursuant to Local Rule 116.5(D) by Massachusetts Nurse Association, The Mercy Hospital, Inc. filed.(Finn, Mary) (Entered: 04/21/2004)
04/23/2004	<u>3</u>	Electronic Clerk's Notes for proceedings held before Judge Kenneth P. Neiman : Scheduling Conference held on 4/23/2004. Order to issue. (Court Reporter CD Recorder.) (Stuckenbruck, John) (Entered: 04/23/2004)
04/23/2004	<u>36</u>	CERTIFICATE OF CONSULTATION by Maurice M. Cahillane Jr. on behalf of The Mercy Hospital, Inc.. (Lindsay, Maurice) (Entered: 04/26/2004)

04/26/2004	<u>97</u>	Judge Kenneth P. Neiman : SCHEDULING ORDER entered. Pltf's motion to vacate arbitration award due by 6/15/2004. Deft's resp. to motion and cross motion to enforce the arbitration award due 7/02/2004. Pltf's resp. to D's cross motion due 7/19/2004; cc/cl.(Finn, Mary) (Entered: 04/26/2004)
04/27/2004	<u>98</u>	CERTIFICATE OF CONSULTATION 16.1(D)(3) by Mark A. Hickernell, Alan J. McDonald on behalf of Massachusetts Nurse Association. (Lindsay, Maurice) (Entered: 04/27/2004)
06/10/2004	<u>99</u>	MOTION for Extension of Time to 6/30/04 to File summary judgment motion and brief by The Mercy Hospital, Inc. (Lindsay, Maurice) (Entered: 06/14/2004)
06/14/2004	<u>3</u>	Magistrate Judge Kenneth P. Neiman. ELECTRONIC ORDER denying without prejudice <u>9</u> Motion for Extension of Time to File Summary Judgment Motion and Brief, ENTERED, cc:cl. Denied for failure to comply with Local Rule 7.1(a)(2). (Healy, Bethaney) (Entered: 06/14/2004)
06/14/2004	<u>10</u>	Pltf's motion to ext. time to 6/30/2004 to file its motion for S/J and brief in support filed.(Finn, Mary) (Entered: 06/14/2004)
06/14/2004	<u>3</u>	Magistrate Judge Kenneth P. Neiman. ELECTRONIC ORDER granting <u>10</u> Motion for Extension of Time to file Summary Judgment motion, ENTERED, cc:cl. Plaintiff's motion shall be filed by no later than June 30, 2004, with Defendant's cross-motion and opposition to Plaintiff's motion due by July 16, 2004. Plaintiff's opposition to the cross-motion, along with any reply brief, shall be filed by no later than August 2, 2004. (Healy, Bethaney) (Entered: 06/14/2004)
06/30/2004	<u>11</u>	Ptf's MOTION to Vacate Arbitration Award by The Mercy Hospital, Inc. (Lindsay, Maurice) (Entered: 07/01/2004)
06/30/2004	<u>12</u>	BRIEF in Support of Ptf's <u>11</u> MOTION to Vacate Arbitration Award filed by The Mercy Hospital, Inc. (Attachments: # <u>1</u> Exhibit# <u>2</u> Exhibit# <u>3</u> Exhibit# <u>4</u> Exhibit# <u>5</u> Exhibit)(Lindsay, Maurice) (Entered: 07/01/2004)
07/14/2004	<u>13</u>	Deft's motion to ext. time to 7/22/2004 to resp. to the Pltf's motion to vacate Arbitration Award by Massachusetts Nurse Association filed.(Finn, Mary) (Entered: 07/14/2004)
07/15/2004	<u>3</u>	Judge Kenneth P. Neiman : electronic ORDER entered granting <u>13</u> Defendant's Motion for Extension of Time to July

		22, 2004, to respond to Plaintiff's motion, to which Plaintiff may respond by August 9, 2004. So ordered. (Neiman, Kenneth) (Entered: 07/15/2004)
07/21/2004	<u>14</u>	Deft. Massachusetts Nurse Associations's motion to ext. time to 7/23/2004 (one day) to resp. to the Pltf's <u>11</u> MOTION to Vacate filed by fax.(Finn, Mary) (Entered: 07/21/2004)
07/21/2004	<u>3</u>	Judge Kenneth P. Neiman : ELECTRONIC ENDORSED ORDER entered granting the Deft's <u>14</u> to ext. time to 7/23/2004 to resp. the the Pltf's <u>11</u> MOTION to Vacate. Deft's Resp. due by 7/23/2004; cc/cl. (Finn, Mary) (Entered: 07/21/2004)
07/23/2004	<u>3</u>	Notice of correction to docket made by Court staff. Correction: Doc. #15 Deleted because it is Duplicate of Doc. # 14. (Stuckenbruck, John) (Entered: 07/23/2004)
07/23/2004	<u>15</u>	Dft's Cross-MOTION to confirm arbitration award by Massachusetts Nurse Association.(Lindsay, Maurice) (Entered: 07/26/2004)
07/23/2004	<u>16</u>	Dft's MEMORANDUM in Opposition to Ptf's <u>11</u> MOTION to Vacate arbitration award filed by Massachusetts Nurse Association. (Lindsay, Maurice) (Entered: 07/26/2004)
07/23/2004	<u>17</u>	AFFIDAVIT of Mark A. Hickernell re <u>15</u> MOTION to confirm arbitration award, <u>16</u> Memorandum in Opposition of Ptf's motion to vacate arbitration award by Massachusetts Nurse Association. (Attachments: # <u>1</u> Exhibit 1# <u>2</u> Exhibit 2) (Lindsay, Maurice) (Entered: 07/26/2004)
08/06/2004	<u>18</u>	MOTION for Extension of Time to 8/23/04 to File Reply Brief, by The Mercy Hospital, Inc., filed.(Healy, Bethaney) (Entered: 08/06/2004)
08/06/2004	<u>3</u>	Magistrate Judge Kenneth P. Neiman. ELECTRONIC ORDER granting <u>18</u> Motion for Extension of Time to File Reply Brief, ENTERED, cc:cl. Reply brief due by 8/23/04. (Healy, Bethaney) (Entered: 08/06/2004)
08/23/2004	<u>19</u>	Ptf's REPLY BRIEF and Opposition to <u>15</u> MOTION to confirm arbitration award filed by The Mercy Hospital, Inc. (Lindsay, Maurice) (Entered: 08/24/2004)
09/03/2004	<u>20</u>	Judge Michael A Ponsor : ORDER entered REFERRING MOTION <u>11</u> MOTION to Vacate filed by The Mercy

		Hospital, Inc., <u>15</u> MOTION to confirm arbitration award filed by Massachusetts Nurse Association to Magistrate Judge Kenneth P. Neiman(French, Elizabeth) (Entered: 09/03/2004)
09/16/2004	<u>21</u>	NOTICE of Hearing on Motion <u>11</u> MOTION to Vacate, <u>15</u> MOTION to confirm arbitration award: Motion Hearing set for 10/13/2004 at 2:00 PM in Courtroom 3 before Magistrate Kenneth P. Neiman; cc/cl.(Finn, Mary) (Entered: 09/16/2004)
10/13/2004	<u>3</u>	Electronic Clerk's Notes for proceedings held before Magistrate Judge Kenneth P. Neiman: Motion Hearing held on 10/13/2004 re <u>11</u> MOTION to Vacate filed by The Mercy Hospital, Inc., <u>15</u> MOTION to confirm arbitration award filed by Massachusetts Nurse Association. Attorney Cahillane appears for Plaintiff; Attorney Hickernell for Defendant. Arguments heard. Motions taken under advisement with report and recommendation to issue. Parties to report within two weeks regarding settlement. (Court Reporter digital.) (Olin, Nathan) (Entered: 10/13/2004)
11/02/2004	<u>22</u>	STATUS REPORT in letter form by The Mercy Hospital, Inc. re: case unable to settle at this time filed. (Finn, Mary) (Entered: 11/03/2004)
01/13/2005	<u>23</u>	Judge Kenneth P. Neiman : Electronic ORDER entered. REPORT AND RECOMMENDATIONS re <u>11</u> MOTION to Vacate filed by The Mercy Hospital, Inc., <u>15</u> MOTION to confirm arbitration award filed by Massachusetts Nurse Association, Recommendation: that the plaintiff's motion to vacate be DENIED and that the defendant's motion to confirm be ALLOWED.Objections to R&R due by 2/2/2005 (Stuckenbruck, John) (Entered: 01/13/2005)
01/13/2005	<u>3</u>	Case no longer referred to Magistrate Judge Kenneth P. Neiman. (Healy, Bethaney) (Entered: 02/28/2005)
02/02/2005	<u>24</u>	Pltf's Objection to the <u>23</u> Report and Recommendation re: Pltf's motion to vacate and Deft's motion to confirm arbitration award. by The Mercy Hospital, Inc. filed. (Attachments: # <u>1</u> # <u>2</u> # <u>3</u> # <u>4</u>)(Finn, Mary) Additional attachment(s) added on 2/3/2005 - page 22 to section four added - page did not scan) (Finn, Mary). Modified on 2/3/2005 (Finn, Mary). (Entered: 02/03/2005)
02/18/2005	<u>25</u>	Deft's Resp. in oppositon to the Pltf's <u>24</u> Objection to Report and Recommendations filed. (Finn, Mary) (Entered: 02/18/2005)

		02/22/2005)
02/18/2005	<u>26</u>	Deft's MOTION to Strike the Pltf's <u>24</u> Objection to Report and Recommendations, by Massachusetts Nurse Association filed. (Finn, Mary) (Entered: 02/22/2005)
02/18/2005	<u>27</u>	Deft's MEMORANDUM in Support of its <u>26</u> MOTION to Strike the Pltf's <u>24</u> Objection to Report and Recommendations, by Massachusetts Nurse Association filed. (Finn, Mary) (Entered: 02/22/2005)
03/04/2005	<u>28</u>	Pltf's Opposition to the Deft's <u>26</u> MOTION to Strike <u>24</u> Objection to Report and Recommendations, by The Mercy Hospital, Inc. filed.(Finn, Mary) (Entered: 03/07/2005)
03/09/2005	<u>29</u>	Judge Michael A Ponsor : MEMORANDUM AND ORDER entered denying <u>26</u> Motion to Strike objection, denying <u>11</u> Motion to Vacate Arbitration award, granting <u>15</u> Motion to confirm the arbitration award, and adopting Report and Recommendations re <u>23</u> Report and Recommendations. See the attached memo & order for complete details. cc/cl (Lindsay, Maurice) (Entered: 03/09/2005)
03/09/2005	<u>30</u>	Judge Michael A Ponsor : ORDER entered. JUDGMENT in favor of Massachusetts Nursing Association against The Mercy Hospital, Inc.,(Lindsay, Maurice) (Entered: 03/09/2005)
04/05/2005	<u>31</u>	Pltf's NOTICE OF APPEAL as to <u>29</u> Memorandum and Order on Motion to Strike,, Order on Motion to Vacate,, Order on Motion for Miscellaneous Relief,, Order on Report and Recommendations, <u>30</u> Judgment of Dismissal by The Mercy Hospital, Inc. filed. Filing fee of \$255.00 not paid. NOTICE TO COUNSEL: A Transcript Report/Order Form, which can be downloaded from the First Circuit Court of Appeals web site at http://www.ca1.uscourts.gov/clerks/transcript.htm MUST be completed and submitted to the Court of Appeals. Appeal Record due by 4/25/2005. (Finn, Mary) (Entered: 04/05/2005)
04/05/2005	<u>3</u>	Original file and docket sheet forwarded to the Appeals Clerk. (Finn, Mary) (Entered: 04/05/2005)